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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,911	10/06/2000	Steven M. Tracy	UNMC 63124	5961

7590 10/02/2002

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EXAMINER

SCHEINER, LAURIE A

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 10/02/2002

Y

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/647,911

Applicant(s)

TRACY ET AL.

Examiner

Shanon Foley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 8, 9, 11-15, drawn to a virus genome that encodes an RNA-dependent polymerase and a modified *pol* gene.

If Applicant elects group I, Applicant must also elect the following patentably distinct inventions A or B, followed by an election of patentably distinct inventions i-xi.

- A) RNA polymerase, claims 2, 10
- B) DNA polymerase, claim 6

- i) enterovirus genome, claim 3
- ii) cacksakie virus, claims 4, 5
- iii) poliovirus, claim 3
- iv) polio-like virus, claim 3
- v) echovirus, claim 3
- vi) HIV, claim 7
- vii) HTLV, claim 7
- viii) ASLV, claim 7
- ix) FeLV, claim 7
- x) BIV, claim 7
- xi) EIAV, claim 7

Group II, claim(s) 16-21, 25-30, drawn to a modified cocksackie 3B virus with a modified *pol* gene.

Group III, claim(s) 22-24, drawn to a modified cocksackie 3B genome with a modified *pol* and transcription regulation region.

The inventions listed as Groups I-V, A or B, and i-xi do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

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The special technical feature of Group I is drawn to a first product, a virus genome that encodes an RNA-dependent polymerase and a modified *pol* gene.

Inventions A and B do not share the special technical feature with group I because neither product is drawn to a viral genome with a modified *pol* gene.

Inventions i-xi do not share the corresponding special technical feature with group I because all of the viruses are structurally, functionally, pathogenically and immunologically dissimilar.

Group II does not share the special technical feature of group I because group II is drawn to a second product that is structurally, functionally, and pathologically distinct from the virus genome of group I. The virus of group I is not limited to a particular virus.

Group III does not share the special technical feature of groups I or II because group III is drawn to a third distinct product that is structurally and functionally different from the virus of groups I or II because of the modification in the transcription regulation region.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie Scheiner whose telephone number is (703) 308-1122. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on (703) 308-4027. The fax phone numbers for the

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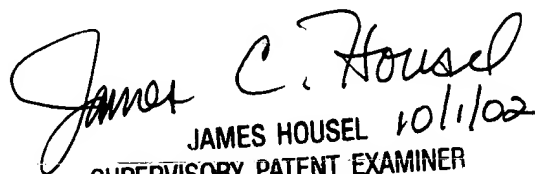
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organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4426 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Laurie Scheiner  
September 23, 2002

  
JAMES HOUSEL 10/1/02  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600